IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 6368 of 2001
For Approval and Signature:
Hon'ble MR.JUSTICE P.B.MAJMUDAR

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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CENTRAL BANK OF INDIA
Versus
ADDL.MAMLATDAR

Appearance: MR ARUN H MEHTA for the Petitioner.
Mr.R.V. Desai, Assistant GOVERNMENT PLEADER,
for Respondent No. 1-2
NANAVATI ASSOCIATES for Respondent No. 3
NOTICE SERVED for Respondent No. 4
MR AK CLERK for Respondent No. 5

CORAM : MR.JUSTICE P.B.MAJMUDAR
Date of decision: 03/04/2002

ORAL JUDGEMENT

Leave to delete respondent No.4 from the party array. Rule returnable today. Mr.R.V. Desai, learned AGP, waives service of rule on behalf of respondents Nos.1 and 2, Nanavati Associates for respondent No.3, and Mr.A.K. Clerk for respondent No.5. With the consent of the parties, the matter is taken up today for hearing.

At the outset, Mr.Mehta, learned Advocate for the petitioner, seeks permission to delete the prayer clause 15(A). Permission is granted. Prayer clause 15(A) at page 16 stands deleted.

The petitioner-Bank is a Nationalised Bank and is a Lead Bank of the Consortium of three Nationalised Banks, viz., petitioner-Bank, Bank of India and Allahabad Bank, which has given various financial facilities and advances to the respondent No.3-Company. The Labour

Court, Rajkot has given certain directions regarding recovering the dues of the workmen, on whose behalf certain recovery applications were filed before the Labour Court, to recover the dues of the workmen as arrears of land revenue and it seems that recovery certificate has been forwarded to the Collector, Rajkot and, on the basis of the same, Additional Mamlatdar has issued notices under Sections 152 and 200 of the Bombay Land Revenue Code to show cause and for attaching properties of the respondent No.3-Company. The grievance of the petitioner-Bank is that since the petitioner and other two banks are having charge over the assets of the Company, at the time of putting the property to public auction, the aforesaid aspect is required to be mentioned by the Revenue Authorities. It is submitted by Mr.Mehta, learned Advocate for the petitioner, that such charges are required to be shown at the time of selling the property so that the buyer of the property would be bound by the charges on such property at the time of purchasing the same and, therefore, unless the purchaser is having the knowledge about the same, he may get an impression that he is purchasing the property free from all charges.

Considering the facts and circumstances of the case, I am of the opinion that the Revenue Authorities, i.e. the Collector and Additional Mamlatdar are required to show the charges, which are held by the petitioner and other two Banks as well as the charge of any other institution, which is holding charge over the said property. It is, therefore, directed that the District Collector, Rajkot and Additional Mamlatdar should take care of the aforesaid aspect at the time of selling the property in question and the fact about the charge which the petitioner is holding as well as the charge of the other two banks, viz., Bank of India and Allahabad Bank, also should be clearly mentioned in the public notice as well as in the public advertisement. This direction is required to be given in order to see that the bona fide purchaser may purchase the property with the aforesaid clear knowledge.

Mr.Clerk, who is appearing for the respondent No.5-Union, states that he has no objection if the aforesaid aspect is mentioned by the Additional Mamlatdar or the Collector, as the case may be, at the time of selling / auctioning the property. At the time of issuing the notice or advertisement, the Authority also may mention the nature of the charge of the charge-holder as well as giving the particulars of the property on which such charge is created. It is for the authority to see whether any other institution is having any other

charge over the property in question at the time of issuing notices for public auction.

As stated above, at the time of auctioning or selling the property of the respondent No.3-Company, the Collector and Additional Mamlatdar are directed to point out in such advertisement or notice the fact about the charge, which is being held by the petitioner and the Bank of India and Allahabad Bank. Mr.Mehta for the petitioner has submitted that the concerned Bank will cooperate with the Additional Mamlatdar as well as with the District Collector, in order to see that proceedings are expeditiously carried out for the purpose of selling or auctioning the assets of the respondent No.3-Company. The Revenue Authority is accordingly directed to act in accordance with law in the matter of auctioning or selling the assets of the Company. The Revenue Authority will be free to gather any other information in connection with the subject matter.

The petition is accordingly allowed only to the extent, as indicated above, i.e. to point out, at the time of issuing any notice for sale or advertisement, the fact about such charge which is being held by the petitioner and the other two banks, viz., Bank of India, and Allahabad Bank, and, as stated above, if any other institution is having any charge, the same also may be mentioned and if any hearing is required to be given to any other institution, the Additional Mamlatdar / Collector may do so.

Rule is made absolute to the aforesaid extent.

3rd April, 2002 (P.B. Majmudar, J.)

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(apj)